

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

UNITED STATES OF AMERICA)
)
 V.) CRIMINAL NO.04-10191-WGY
)
 RODAS ALVARADO)

DISMISSAL OF INDICTMENT

The United States of America, pursuant to Rule 48(a) of the Federal Rules of Criminal Procedure, hereby dismisses without prejudice the indictment against RODAS ALVARADO. As grounds for the instant dismissal, the undersigned states the following:

The Defendant was indicted on June 30, 2004 for violations of 8 U.S.C. §1326(a) (illegal re-entry by deported alien) and 8 U.S.C. §1324 (harboring of aliens). The government moved for detention of the Defendant pursuant to 18 U.S.C. §3142(f)(2)(a). The government argued that the Defendant, if released, would be subject to deportation and therefore, unavailable for prosecution and trial. On July 21, 2004, after a hearing, the Court released the defendant.

After the Defendant's release from Marshal's custody, the Defendant was subject to a detainer from Immigration and Customs Enforcement. Defendant, having been previously deported, was subject to reinstatement of his prior removal order.

On September 10, 2004, the defendant was deported from the United States pursuant to the Warrant of Deportation and is not available for his trial.

Respectfully submitted,

/s/Michael J. Sullivan

MICHAEL J. SULLIVAN
United States Attorney

October , 2004
Leave To File Granted:

WILLIAM G. YOUNG
Chief United States District Judge
Date: _____

CERTIFICATE OF SERVICE

I, Nadine Pellegrini, hereby certify that I have this 15th day of October, 2004, served by electronically filing a copy of the foregoing on counsel for the defendant, Miriam Conrad, Esq., Federal Defender Office, Boston, MA.

/s/Nadine Pellegrini
Nadine Pellegrini
Assistant U.S. Attorney